

WARREN ZONING BOARD OF REVIEW
October 21, 2015
Minutes

The regular meeting of the Warren Zoning Board was called to order at 7:00pm at the conclusion of the Building Code Board of Appeals by Chairman S. Calenda. Also present was Vice Chairman P. Attemann, A. Harrington, A. Ellis and 1st Alternate M. Emmencker. Excused were M. Smiley and 2nd Alternate W. Barrett Holby.

Approval of Minute - September 16, 2015. A motion was made by A. Harrington to accept the September 16 2015 minutes as circulated. Seconded by Vice Chairman P. Attemann. Yea – Chairman S. Calenda, Vice Chairman P. Attemann, A. Harrington, A. Ellis and 1st Alternate M. Emmencker.

The Warren Building Code Board of Appeal was called to order at 7:05pm.

Old Business – NONE

The Warren Zoning Board of Review reconvened at 7:46pm.

New Business

Application #15-40, R & D Construction Co., Inc, owner, Diane & Robert Nichols, applicants, 249 Child St; Plat Map 10, Lots 171, 174 & 181, request for a *Variance* from section 32-47 of the Warren Zoning Ordinance to allow a mixed use residential use in a manufacturing district.

Giovanni Cicione, Esq, Cicione & Associates, 282 County Rd, Barrington, RI, represented applicants Diane and Robert Nichols, request for a *Variance* for the use of a portion (approx 1,400 sq ft.) of the second story of the building located at 249 Child St to be used as an apartment for their daughter. Having their daughter reside here would add to the safety of this property otherwise it would be vacant and this use is consistent with other uses in the area. This second story space hasn't been used in years and this would be a good constructive use of a portion of the building which has a fence company located on the first floor. Due to the unique layout of the building it is unlikely this space would be filled with another use such as retail. Mr. Cicione also gave a description of the other tenants in the building; the Fence Depot uses this facility as a staging area and lightly assembles commercial and residential fencing. Darlington Hobbies retails novel cars, rockets, trains etc. and R & D Construction is owned by Diane & Robert Nichols. The Nichols's son also has equipment at this facility. There are no manufacturing uses or combustibles that would limit the proposed second floor use as a residential area. Further, there are currently two (2) fire walls that would protect that section, the ceilings are double 5/8" fire code on the bottom floor with the rest of the building being 5/8" fire code, there is a fire alarm system in the building with no sprinkler system.

Robert Nichols, owner, was available to give testimony for Application #15-40. Mr. Nichols explained that the suggested living area would be located above the main building (the masonry wood structure) which abuts to the second building. The first floor is used for storage of construction tools and some

carpentry work is also being done there. The second floor is vacant and has never been used during his 15 year ownership.

Public Comment

Karen Ouellette, 244 Child St, Warren, agreed there is quite a few residents in the neighborhood and is not opposed to this request. She stated that she was confused as to why all three (3) lots are being considered in this request. It was explained to her it is one Plat with three Lots.

It was moved by A. Ellis to approve Application #15-40, R & D Construction Co., Inc, owner, Diane & Robert Nichols, applicants, 249 Child St, Plat Map 10, Lots 171, 174 & 181, request for a *Variance* from section 32-47 of the Warren Zoning Ordinance to allow a mixed use residential use in a manufacturing district. The granting of this Variance is based on the testimony heard, finding of fact the hardship results from the unique characteristic of land or structure specifically the structure has existed for quite some time and this portion of this structure on the second floor in particular has been a feature of the building for many years and un-rentable as any other use which goes to the standard that it would not yield and beneficial use other than what is being proposed which the testimony supports. The hardship is not the result of any prior action of the applicant as this building and site is pre-existing. The granting of the Variance will not alter the surrounding area or character of the neighborhood as there are other mixed uses and structures in the close proximity with a variety of residential and other types of uses in them. The relief the applicant is seeking is the least relief necessary as the applicant has testified as it is only a portion of the second floor of the structure being converted to a residential use with the remainder of the structure to remain as is currently is. The granting of this Variance shall be conditional that whatever improvement that are made to the residential portion of the structure will comply with all applicable building codes as determined by the Building Official and the Fire Chief and this approval shall be limited to only one residential living unit. Second by A. Harrington. Yea – Chairman S. Calenda, Vice Chairman P. Attemann, A. Harrington, A. Ellis and 1st Alternate M. Emmencker.

Application #15-41, Moye, William E & Moye Fuller Deborah, owners and applicants, 58 Washington St., Plat Map 5, Lots 4, & 4A, request for a *Special Use Permit* from sections 32-84 and 32-85 of the Warren Zoning Ordinance to reduce lot size to less than minimum requirements by subdividing an existing non-conforming lot of record.

Deborah Moye Fuller, owner and applicant was present to give testimony for Application #15-41. Ms. Fuller explained that Plat 5, Lot 4 is an existing single family resident that was built in approximately 1860 and Plat 5, Lot 4A is a commercial building being built in 1915, they occupy approximately 5,760 sq. ft. lot which more than 60% of the lot. The purpose of the request is to more accurately reflect the existing uses of each property separately and apart from each other. The granting of this request would also allow for better alignment of the taxes, insurance and financial instruments necessary for each property. She further explained that as the property currently exists it is a hardship due to the lending laws and the unique characteristics of this property; lenders will not finance this property. Ms.

Fuller stated that she does not have any historical documentation as to where the lot lines were. Ms. Fuller explained there are two parking spaces for the residential unit.

Public Comment

John Quatrucchi, 325 & 327 Water St, remembers there being two parking spaces being in the garage and did not believe the testimony given by Ms. Fuller to be accurate. Mr. Quatrucchi stated that the Zoning Board did not approve on street parking in 2007 and suggests that parking could be made available for 6 vehicles on Lot 4A, with the area being approximately 27' wide at the narrowest point, approximately 30' wide at the widest point and 60' deep. Mr. Quatrucchi explained that he believes that the Board is asked to create two even further substandard lots and that the Zoning Board does not have the authority to do such. To his knowledge at least back to 1952 this has always been one property. Mr. Quatrucchi also stated believe the division of this lot is so that Ms. Fuller can sale them as they are currently for sale which would be an economic advantage to the applicant and against the Zoning Ordinance and State Law.

Solicitor Skwirz clarified that the Town's Ordinance 32-82 states that two lots can only merge if said structures are related to a principle use located on one or more of the lots. So under the Town's Ordinance they could only merge in the first place if they were both related to the same use. State Law on merger ordinances, it states that Municipalities can pass merger ordinances (45.24.38) but only for two unimproved lots or one improved lot and one unimproved lot.

It was moved by A. Ellis to approve Application #15-41, Moye, William E & Moye Fuller Deborah, owners and applicants, 58 Washington St., Plat Map 5, Lots 4, & 4A, request for a *Special Use Permit* from sections 32-84 and 32-85 of the Warren Zoning Ordinance to reduce lot size to less than minimum requirements by subdividing an existing non-conforming lot of record. The granting of this Special Use Permit is based on the testimony heard this evening and with the decision from the Warren Planning Board hearing, finding of fact the proposed use will compatible with the neighboring land uses for there are a variety of uses in this area and the proposed is not inappropriate. The Special Use will not create a hazard in the neighborhood, the Board heard no testimony that by the splitting of these lots would lead to a hazard, and both uses would be residential and commercial type business in Village Business District which is not proposing anything different than what it is at the present time. The granting of this Special Use will be compatible with the Community Comprehensive Plan, the testimony supports it will not be contrary to the Comprehensive Plan, it will not change any character of the Village Business District and the Board has heard no evidence contrary direction to that plan. Finding of fact that the public welfare and convenience will be served based on the testimony, this separation of the two lots will better align the uses, being separate uses on separate lots and would be more compatible with the Town administration. Additional finding of fact, that this resulting development would have adequate water service, waste water disposal and fire protection. The applicant in her opening statement has described that all of these services are readily available for the two lots and no issues were raised questioning those services and each lot/structure would have its own services. There would not be an increase burden on the community infrastructure and services the Board has heard no evidence that by dividing these two lots would impose any greater burden upon the resources of our community then presently exists. The granting of this application will not

have a negative impact on the natural environment and historical cultural resources, again by separating these lots will not alter any of existing environment conditions there, there is no proposal of either the structures that would impact the historical cultural aspect.

Second by M. Emmencker. Yea - Chairman S. Calenda, Vice Chairman P. Attemann, A. Ellis and M. Emmencker. Nay – A. Harrington 4-1

Administrative Matters

Discussion and action of the 2016 Calendar

It was moved by A. Harrington to accept the 2016 Calendar as circulated. Second by Vice Chair P. Attemann. Yea - Chairman S. Calenda, Vice Chairman P. Attemann, A. Harrington, A. Ellis and M. Emmencker. 5-0

Adjourn

It was moved by A. Harrington to adjourn the meeting at 7:48 pm. Second by P. Atteman. Yea - Chairman S. Calenda, Vice Chairman P. Attemann, A. Harrington, A. Ellis and M. Emmencker. 5-0

Respectfully Submitted,

Rhonda Lee Fortin